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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,908	10/22/2003	Jennifer Hope Harris	Jenn003	6388
54279	7590	08/19/2008		
PAUL V. KELLER, LLC 4585 LIBERTY RD. SOUTH EUCLID, OH 44121			EXAMINER NGUYEN, THUY-VI THI	
			ART UNIT 3689	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,908

Applicant(s)

HARRIS, JENNIFER HOPE

Examiner

THUY VI NGUYEN

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 7-9 and 11-12, 24, 27-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 7-9, 11, 12, 24 and 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to the applicant's communication filed on July 14, 2008, wherein:

Claims 3-4, 6, 10, 13-23, 25-26 have been cancelled;

Claims 1-2 7-9, 11 and 24 have been amended;

Claims 1-2, 5, 7-9, 11 and 24, 27-29 are currently pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 14, 2008 has been entered.

On July/14/2008, the amended claims 1, 9, and 24 is as followed:

Claim1 (Currently amended) A method of providing a service, comprising:
~~providing having a funeral business provide a funeral service that a number of persons~~
attend; and

the funeral business identifying attendees of the funeral service;

the funeral business advising the attendees of potential advantages of contacting
the bereaved on an anniversary of the funeral service, the funeral business providing

the advice selectively to those it has identified as attendees, selecting those to receive the advice based on their attendance;

~~offering persons selected based on their attendance of that service an election to receive a funeral anniversary reminder~~the funeral business offering the advised attendees of the funeral service a funeral anniversary reminder;

some of the attendees accepting the offer based on the advice; and

the funeral business causing those accepting the offer to receive the funeral anniversary reminder.

Claim 9 (Currently amended) A method of advertising a funeral business, comprising:

obtaining a list of funeral or memorial service attendees; and

shortly before a funeral anniversary date, providing members of the list with a reminder that the funeral anniversary date is approaching;

wherein the reminder includes the name of a funeral business and describes potential advantages of contacting the bereaved on the funeral anniversary;

some of the recipients of the reminder, in response to the advice, sending a note to bereaved persons in connection with the funeral anniversary on or about the funeral anniversary.

Claim 24 (Currently amended) A method of providing a service, comprising:

fulfilling requestors' requests to send flowers or plants in connection with a funeral;

on or about an anniversary of the funeral, reminding requestors of the funeral anniversary;

advising requestors of potential advantages of contacting the bereaved on the funeral anniversary;

selectively offering to send persons requesting that that flowers or plants to a bereaved person on behalf of requestors on the funeral anniversary; and be sent in connection with a funeral event an election to receive a funeral anniversary reminder.

one or more requestors, in response to the reminder and the advice, accepting the offer.

Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-2, 5, 7-8, 9, 11-12, 24, 27-29 are reject under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584,

588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. With respect to claims **1-2, 5, 7-8, 9, 11-12, 24, 27-29**, the claim language does not transform the underlying subject matter and the process is not tied to another statutory class. The process steps of *identifying attendees of the funeral service, advising the attendees, selecting, offering the advised, accepting the offer and accepting the offer; sending a note, obtaining a list, requesting to send flowers, reminding requestors of the funeral anniversary, advising requestors, or offering to send flowers* is not tied to another statutory class, such as an apparatus, and thus, the claims are directed to nonstatutory subject matter.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As for claim 1, steps (a, b, c, and d) recited the “funeral business” is the party or organization that provide a funeral service, identify attendees, advise the attendees regarding contacting the bereaved, provide the advice to the attendees and select the

attendees who receive the advice. However, the Examiner asserts that the applicant's original disclosure does not specifically state that **"a funeral business"** is the party that actually conducts all those process steps as stated above. The specification discloses *"the method of advertising a funeral business and providing a service to the bereaved and their supporters"* (pars. 0024); *"A funeral anniversary reminder becomes a method of advertising when it includes the name of a funeral business"* (par. 0032). For the above reason, the amendments to the claims and/or specification should be accompanied by a written statement indicating specific support for the amended claim limitations or cancelled from the claims.

Claim 2 has been amended to include the limitation of "in response to the funeral anniversary reminder and the advice, some of the recipients of the funeral anniversary reminder sending a note to the bereaved". The Examiner has carefully reviewed the original disclosure and asserts that there is not support for the limitation of recipients sending a note to the bereaved. Thus, the Examiner requests that the applicant direct the Examiner to where there is sufficient support for the newly added limitation.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for claim 1, step c, it is unclear to the Examiner about the claim language. *"advising the attendees of potential advantages of contacting the bereaved on an anniversary of the funeral service, the funeral business providing the advice selectively to those it has identified as attendees, selecting those to receive the advice based on their attendance"* What is potential advantages for advising? Does it mean giving or convincing the attendees the reason for contacting the bereaved on an anniversary? More over, there are lack antecedent and basis for the terms **"the advice"** and **"it"**. What are these terms referred back to? It is unclear of how the step *"providing the advice selectively to those it has identified as attendees"* is carried out. Therefore, the step is read as follow: *"the provider advising/informing/communicating to the attendees the potential advantages of contacting the bereaved on an anniversary of the event, providing the advice to the identified attendees and selecting the attendees who receive the advice"*.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims **1-2, 5, 7-8, 9, 11-12, 24, 27-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell et al. (US 2002/0178079) and in view of Applicant Admitted Prior Art (**AAPA**) (par. 0004-0005)

[0004] Conventional wisdom is that the bereaved need to "move forward" and forget about deceased loved ones. People are generally hesitant to do anything that might remind the bereaved of their loss. Nonetheless, some organizations recognize the need of the bereaved for support long after the funeral, particularly around funeral anniversaries. In Judaism, a one-year funeral anniversary, called Yahrzeit (Jahrzeit), is observed. Organizations such as MADD and hospices send relatives of the deceased notes on funeral anniversaries.

[0005] The literature recognizes the potential value of friends and community in supporting the bereaved and the potential isolation of the bereaved after the funeral.

and further in view of Tso (US 2001/0019637).

Claim 1 is interpreted as follow:

A method of providing a service or event comprising:

a) having a provider or an entity provides a funeral service that a number of person attend [...Russell discloses *a funeral service or Memorial Service with the number of people attend or visit*; see pars. Pars. 0010; 0151 about 100 people attended the wake and/or funeral; 0190-0192 the funeral service usually begins at the funeral home];

b) the provider identifying attendees of the funeral service [...Russell discloses MyEtribute.com as a funeral business wherein the MyEtribute.com can identify the number of people attended the funeral i.e." *about 100 people attended the wake and /or funeral*; par. 0151; par. 0020, lines 4-10; par. 0132, lines 1-2];

c) the provider advising/informing/communicating to the attendees providing information (advice or note or guestbook) to those identified as attendees and selecting

the attendees who receive the advice/or note (see pars. 0150-0151 wherein Russell discloses *"about 100 people attended the wake and/or funeral; All received Tribute cards which carried the MyETribute.com logo"*; suggest to contact the survivor or the bereave [par. 0199]; offering the tributes card (par. 217) the inventive web site features announcements, tributes (pars. 0221-0222) and the offering card including the Anniversary Reminder (par. 0229) and the communication sympathy (par. 0010); providing a guestbook or advice for attendee (pars. 0084; 0207; 0226). Therefore, Russell discloses contacting providing an anniversary reminder to those who attendee a funeral service);

d) the provider offering to the advised attendees an item related to the event, wherein items is about anniversary reminder of event [...Russell discloses *offering to those morning the sympathy, tribute and acknowledgement cards* (par. 0217); *the tribute cards such as a small white card or customized tribute with memorial information are available* [par. 0221], *and tribute card or other offering order on paper or other customized offerings include, for example " Anniversary Reminders"* [par. 0229]]. Therefore Russell discloses the offering the anniversary reminder to the attendees;

Russell doesn't explicitly the ***potential advantages*** of advising persons to contact the bereaved. However, Applicant's Admitted Prior Art (**AAPA**) on par 0004 discloses the well known potential advantage of advising the bereaved (par. 0004 *"...some organizations recognize the need of the bereaved for support long after the*

funeral, particularly around the funeral anniversaries; and sending relatives of the deceased notes on funeral anniversaries”).

Therefore, it would have been obvious to one of ordinary skill in the art to provide the contacting the bereaved person for the Anniversary Reminder of Russell to include the advantage for advising or reminding the bereaved by sending the note on funeral anniversaries as taught by AAPA to support the bereaved long after the funeral.

Russell/AAPA doesn't explicitly disclose some of the attendees accepting the offer and causing the attendees to receive the funeral anniversary reminder (steps e and f).

In a similar method of offering or inviting an attendee of an event a reminder, Tso discloses the person is accepts the offer or the invitation to an event [see abstract; par. 0007, par. 0049; par. 0085-0086; figure 6 (step 62)]; and causing the attendees to receive the reminder of the event [abstract; 0013; pars. 0052-0057 i.e. *reminder that is to be sent to those attendees who indicated that they will be attending* [see par 0057]; and figure 4.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of offering the anniversary reminder for an event of Russell/AAPA to include the accepting and receiving the event to be reminded as taught by Tso in order to provide the advantage to remind the invitees or attendees, who have accepted the offer or invitation, that the event is coming [Tso; par. 0005].

As for claim 2, Tso discloses sending a note to a person about the anniversary or about the event such as anniversaries, wedding, funeral or birthday; [pars. 0013; par. 0049; par. 0052; par 0057 and figure 4];

It would have been obvious to one of ordinary skill in the art at the time of the invention to including the method of offering the person the anniversary reminder of Russell to include the sending out the reminder about the event such as anniversary as taught by Tso in order to provide the advantage to remind the invitees or attendees, who have accepted the offer or invitation, that the event is coming [Tso; par. 20005].

As for claim 5, Russell discloses wherein the reminder includes guidelines for whether to contact the bereaved in regard to the anniversary [pars. 0215-0216]. **Note:** The limitation "wherein the reminder includes guidelines for whether to contact the bereaved" is non-functional descriptive data and will not be given any patentable weight. See MPEP 2106.01

As for claim 7, Russell discloses offer is made at the funeral service [Russell discloses MyEtribute.com websites offers the person who attended the funeral the election to receive an Anniversary Reminder (pars. 0150-0151; 0221; 0229)].

As for claim 8, wherein the attendees accepts the offer by appropriately marking a funeral register [...pars. 0222-0223 *wherein full tributes card may be made by any user and can be done either in paper or electronic; user may elect to have courtesy reminders*].

As for claim 9, Russell discloses a method of advertising a funeral business, comprising:

obtaining a list of funeral or memorial service attendees [...*list of people sending tributes; 100 people attended the funeral*; see pars. 0110-0111; pars. 0150-0153]; Furthermore Russell discloses a guest book [pars. 0109; par. 0168]] which is asserted to be a list of attendees.

shortly before a funeral anniversary date, providing members of the list with a reminder that the funeral anniversary date is approaching [...user may be reminded of upcoming events (pars. 0043). The examiner interprets the events can be a ceremony, an anniversaries, a wedding or any kind of the services; see also (par. 0229) anniversary reminder). ;

wherein the reminder includes the name of a funeral business (MyEtribute.com; see pars. 0111-0112) [Russell discloses *the suggestion of contact the survivor or the bereave* [par. 0199]; *offering the tributes card* (pars. 0221-0222); *the offering card including the Anniversary Reminder* (par. 0229); and communicate sympathy (par. 0010) . Therefore, Russell discloses the contacting the bereave on the event or the anniversary date.

Russell doesn't explicitly the potential advantages of the reminder or advising the bereaved.

However, Applicant's Admitted Prior Art (**AAPA**) on discloses the well known potential advantage of advising the bereaved (see par. 0004 "*...some organizations recognize the need of the bereaved for support long after the funeral, particularly around the funeral anniversaries; and sending relatives of the deceased notes on funeral anniversaries*").

It would have been obvious to one of ordinary skill in the art to provide the contacting the bereaved person for the Anniversary Reminder of Russell to include the advantage for advising or reminding the bereaved by sending the note on funeral anniversaries as taught by AAPA to support the bereaved long after the funeral.

Russell/AAPA doesn't explicitly disclose **actually sending** a note to bereaved persons in connection with the event wherein the event is the funeral anniversary.

Tso discloses sending a note to a person about the anniversary or about the event such as anniversaries, wedding, funeral or birthday; [pars. 0013; par. 0049; par. 0052; par 0057 and figure 4];

It would have been obvious to one of ordinary skill in the art at the time of the invention to including the method of offering the person a the anniversary reminder of Russell/AAPA to include the sending out the reminder about the event such as anniversary as taught by Tso in order to provide the advantage to remind the invitees or attendees, who have accepted the offer or invitation, that the event is coming [Tso; par. 20005].

As for claim 11, Russell discloses wherein the reminder includes suggestions for what to write in a note to the bereaved [...*suggestion the cards for any particular category or religion*; par. 0218-0219]. **Note:** The limitation "wherein the reminder includes suggestions for what to write in a note" is non-functional descriptive data and will not be given any patentable weight. See MPEP 2106.01

As for claim 12, Russell discloses wherein the reminder includes guidelines for whether to contact the bereaved [pars. 0215-0216]. **Note:** The limitation "wherein the

reminder includes guidelines for whether to contact the bereaved" is non-functional descriptive data and will not be given any patentable weight. See MPEP 2106.01

As for claim 24, Russell discloses a method of providing a service, comprising: fulfilling requestors' requests to send flowers or plants in connection with a funeral [Russell discloses mourners can send sympathy cards and flowers; see pars. 0110-0111 and pars 0155]

reminding requestors of the funeral anniversary [...Russell discloses reminding the user the other significant date (see par. 00440 or reminded of upcoming events (see par. 0043)]. Therefore it is interpreted broadly but reasonably that the significant date can be a funeral anniversary date.

advising requestors to contact the bereaved on the funeral anniversary [.....*Russell discloses the suggestion of contact the survivor or the bereave* [par. 0199]; *offering the tributes card* (pars. 0221-0222) and *the offering card including the Anniversary Reminder* (par. 0229) and *the communication sympathy* (par. 0010)]. Therefore, Russell discloses contacting the bereaved on the event or the anniversary date.;

offering to send flowers or plants to a bereaved person [...Russell discloses flower offering appear on MyEtribute.com [par. 0019; 0046; 0064; 0155; 0151].

Russell doesn't explicitly the potential advantages of the reminder or advising the bereaved.

Applicant Admitted Prior Art (**AAPA**) on discloses the potential advantage of advising the bereaved (see par. 0004 "*...some organizations recognize the need of the*

bereaved for support long after the funeral, particularly around the funeral anniversaries; and sending relatives of the deceased notes on funeral anniversaries").

It would have been obvious to one of ordinary skill in the art to provide the contacting the bereaved person for the Anniversary Reminder of Russell to include the advantage for advising or reminding the bereaved by sending the note on funeral anniversaries as taught by AAPA to support the bereaved long after the funeral.

Russell/AAPA doesn't disclose **accepting the offer** in response to the reminder;

In a similar method of reminding the person for an event such as anniversaries, Tso discloses accepting the offer in response to the reminder [see abstract; par. 0007, par. 0049; par. 0085-0086; figure 6 (step 62) i.e. *the user response that they will be attending the event*];

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of offering the anniversary reminder for an event of Russell/AAPA to include the accepting and receiving the event to be reminded as taught by Tso in order to provide the advantage to remind the invitees or attendees, who have accepted the offer or invitation, that the event is coming [Tso; par. 0005].

As for claim 27-29, Russell discloses wherein the reminder is for a one year anniversary (par. 0029). Note: Anniversary reminder is also considered as a one year anniversary and also referring to a dictionary "anniversary" is defined as:

anniversary



an·ni·ver·sa·ry [ănnə vŭrssəree] { *plural* an·ni·ver·sa·ries }

noun

Definition:

1. annual observation of past event: a date that is observed on an annual basis because it is the same date as an important event in a past year, e.g. the date of somebody's wedding

Response to Arguments

7. Applicant's arguments with respect to claims 1-2, 7-9, 11 and 24, 27-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689